

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICIA HICKS-LARK,

Plaintiff,

Case No. 13-13430
HON. GERSHWIN A. DRAIN

vs.

BANK OF NEW YORK, *et al.*,

Defendants.

/

**ORDER DENYING PLAINTIFF'S MOTION TO SET ASIDE JUDGMENT AND
REOPEN CASE [#8]**

Presently before the Court is Plaintiff's Motion to Set Aside Judgment and Reopen Case, filed on October 3, 2013. On September 26, 2013, this Court granted Defendants' Motion to Dismiss. *See* Dkt. No. 6. In the September 26, 2013 Order, the Court noted that Plaintiff failed to file a Response to the Defendants' Motion to Dismiss. *Id.* at 1. In her present motion to set aside the judgment, Plaintiff maintains that she did not receive notice of Defendants' Motion to Dismiss. Plaintiff requests that the Court reopen the present matter based on this lack of notice.

Rule 60 of the Federal Rules of Civil Procedure governs relief from a final order and judgment. Rule 60(b) states:

(b) Grounds for Relief from Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;

- (2) newly discovered evidence, that with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b). Plaintiff has failed to demonstrate entitlement to the relief sought in her present motion. Plaintiff fails to raise any meritorious arguments that she was prevented from raising due to Defendants purported failure to provide her notice of their Motion to Dismiss. As such, the Court concludes that judgment in favor of Defendants was warranted under Rule 12(b)(6) of the Federal Rules of Civil Procedure and declines to reopen the instant matter for further proceedings.

Accordingly,

Plaintiff's Motion to Set Aside Judgment and Reopen Case [#8] is DENIED.

SO ORDERED.

Dated: March 25, 2014

/s/ Gershwin A. Drain
GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 25, 2014, by electronic and/or ordinary mail and also to Patricia Hicks-Lark at 3835 Bishop, Detroit, MI 48224.

/s/ Tanya Bankston
Deputy Clerk